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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,
14 Plaintiff,
15 v.
16 CILDER VELASQUEZ,
17 Defendant.

CASE NO. CR-19-0367-7-CRB

**DEFENDANT'S SENTENCING
MEMORANDUM**

18
19 TO: STEPHANIE HINDS, ACTING UNITED STATES ATTORNEY; AND
20 SAILAJA M. PAIDIPATY, ASSISTANT UNITED STATES ATTORNEY.

21 PLEASE TAKE NOTICE that, on October 28, 2021 at 9:00 a.m., or as soon thereafter
22 as client may be heard, the defendant by and through his attorney, Erick Guzman, will ask
23 this Court grant the following departures, adjustments, and impose a sentence of time-
24 served.
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I

INTRODUCTION

Mr. Velasquez has been in custody for approximately twenty-seven months, the majority of that time occurring during the COVID-19 pandemic. He respectfully requests a sentence of time-served.

The Pre-Sentence Report (“PSR”) describes Mr. Velasquez’s youth in Honduras in which he began work as a field laborer at the age of 10. ADD, and how his father had to live in the United States for two-year blocks of time in order to remit funds back to the family in Honduras. PSR at ¶74.

II

THE INSTANT OFFENSE

Mr. Velasquez pleaded guilty to his involvement in a broad and toxic narcotics distribution ring. In short, he was a cog in a machine that provided user-quantity drugs in street-level transactions. For his part, Mr. Velasquez received a relatively modest income: less than one thousand dollars per week.

The parties agree that Mr. Velasquez’s adjusted offense level is 25, with a criminal history category III, and resulting advisory guideline range of 70-87 months.

III

THIS COURT SHOULD IMPOSE A SENTENCE OF TIME-SERVED TO AVOID UNWARRANTED SENTENCING DISPARITIES.

Section 3553(a) requires district courts to impose the lowest possible sentence that fulfills all relevant sentencing objectives, including the avoidance of sentencing disparities. To that end, Mr. Velasquez will highlight his co-defendants that received sentences of less than one year of custody (Mr. Velasquez has already been in custody for more than two

1 years and three months):

2 Julio Viera-Chirinos (defendant-4) spent roughly five months in federal custody
3 before receiving a time-served sentence;

4 Gustavo Gamez-Velasquez (defendant-9), Rudulio Garcia (defendant-11), Elvin
5 Padilla (defendant 13), Yorda Galindo (defendant-14), Rudis Valladeres-Caceres
6 (defendant-15) all served approximately eight months before receiving time-served
7 sentences. PSR at 5.

8
9 Towards the other end of the spectrum of culpability is co-defendant Victor Viera-
10 Chiernos, who was a leader, organizer, *etc.*, who—according to the Government—could
11 earn \$80,000 in the span of four to five months. ECF 381 at 5 (citing line sheets from
12 intercepted communication); Mr. Velasquez would make a mere fraction of that. The
13 Government has argued that a reasonable sentence for a defendant of his stature is sixty-
14 three months, *see* ECF. No. 381 at 12, which *ipso facto* would render a time-served sentence
15 for Mr. Velasquez more than sufficient.
16

17 VI

18 CONCLUSION

19
20 Mr. Velasquez is a non-violent offender who has already spent more than two years
21 in pre-trial custody in conditions that are more restrictive and onerous than normal due to the
22 pandemic. A time-served sentence will adequately deter Mr. Velasquez from future criminal
23 conduct, is adequate punishment, and promotes respect for the law.

24 For the above reasons, Mr. Velasquez respectfully requests a time-served sentence.

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26 ///

1 DATED: October 25, 2021

Respectfully submitted,

3 By

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6 Erick L. Guzman
7 Attorney for Mr. Velasquez